

Message Text

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R 252159Z JUL 73

FM SECSTATE WASHDC

TO AMEMBASSY BUCHAREST

INFO AMEMBASSY ROME

UNCLAS STATE 146394

E.O. 11652 N/A

TAGS: TGEN, RO

SUBJ: NSF/NCST MEMORANDUM OF UNDERSTANDING (MOU)

ON SCIENTIFIC AND TECHNOLOGICAL COOPERATION

REF: STATE 126024

FOR A. DONALD BRAMANTE

NEWLY REWORDED DRAFT COPY FOLLOWS OF PARAGRAPH NINE OF NSF/NCST
MOU ON SCIENTIFIC AND TECHNOLOGICAL COOPERATION. SUBJECT
PARAGRAPH CONCERNS RIGHTS IN AND TO INVENTIONS. REQUEST YOU
TRANSMIT DRAFT TO MATACHE OR OTHER OFFICIALS AT NCST WITH ASSURANCE
NSF IS PREPARED TO SEND LEGAL COUNSEL TO BUCHAREST IF NCST DESIRES
FURTHER CONSULTATION BEFORE VISIT DR. THOMAS B. OWEN. NSF
SUGGESTS SIGNING DATE SEPTEMBER 3 - 5. REQUEST NCST EARLY COMMENT
AND REPLY ON DRAFT AND CONFIRMATION OF ACCEPTABLE SIGNING DATE.

TEXT:

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9. WITH RESPECT TO RIGHTS IN AND TO INVENTIONS CONCEIVED OR FIRST REDUCED TO PRACTICE DURING THE COURSE OF ANY PROJECT OR OTHER ACTIVITY CONDUCTED UNDER THIS PROGRAM (HEREINAFTER REFERRED TO AS "SUBJECT INVENTIONS"), THE PARTIES AGREE THAT THE FOLLOWING PRINCIPLES ARE DESIRABLE AS GUIDELINES IN THE EQUITABLE ALLOCATION OF RIGHTS BETWEEN THE TWO SIDES.

A. WITH RESPECT TO ANY SUBJECT INVENTION WHICH IS OR MAY BE PATENTABLE, JOINTLY CONCEIVED OR FIRST REDUCED TO PRACTICE BY COLLABORATING PARTICIPANTS OF THE TWO SIDES IN THE COURSE OF ANY ACTIVITY CARRIED OUT UNDER THIS MEMORANDUM, THE PARTIES AGREE (I) THAT EACH OF THE PARTIES WILL HAVE THE SOLE RIGHT TO CONTROL THE DISPOSITION OF ALL RIGHTS IN THE SUBJECT INVENTION WITHIN ITS TERRITORY, AND THE OTHER PARTY AGREES TO TAKE SUCH STEPS AS ARE NECESSARY TO ASSURE THAT SUCH PARTY RECEIVES SUCH SOLE RIGHT, AND (II) THAT EITHER PARTY OR ITS DESIGNEE MAY SEEK TO OBTAIN PATENTS IN THIRD COUNTRIES. WHENEVER A PATENT APPLICATION IS FILED IN A THIRD COUNTRY, THE OTHER PARTY SHALL BE NOTIFIED, AND SUCH OTHER PARTY SHALL UPON REQUEST MADE WITHIN ONE YEAR AFTER SUCH NOTICE IS GIVEN, BE GRANTED, AT A MINIMUM, AN IRREVOCABLE ROYALTY-FREE, NONEXCLUSIVE LICENSE, WITH RIGHT TO SUBLICENSE, TO PRACTICE THE SUBJECT INVENTION IN THE THIRD COUNTRY; PROVIDED, THAT THE REQUESTING PARTY MUST AGREE TO REIMBURSE THE APPLICANT FOR PATENT FOR ONE-HALF OF THE COSTS INCURRED AND THAT MAY BE INCURRED IN THE FUTURE FOR FILING, PROSECUTING, AND MAINTAINING THE PATENT APPLICATION OR PATENTS RESULTING THEREFROM IN THE THIRD COUNTRY.

B. WITH RESPECT TO A SUBJECT INVENTION WHICH WAS CONCEIVED OR REDUCED TO PRACTICE BY A PARTICIPANT OF ONE COUNTRY DURING THE COURSE OF A VISIT TO THE OTHER COUNTRY, THE PARTY OF THE INVENTING PARTICIPANT AGREES THAT THE HOST PARTY SHALL HAVE A ROYALTY-FREE, NONEXCLUSIVE, IRREVOCABLE LICENSE, WITH THE RIGHT TO SUBLICENSE, TO PRACTICE ANY SUCH SUBJECT INVENTION WITHIN THE TERRITORY OF THE HOST PARTY.

C. THE FACT THAT RIGHTS IN A SUBJECT INVENTION ARE CONFERRED ON EITHER PARTY IN ACCORDANCE WITH THIS MEMORANDUM OF UNDERSTANDING IS NOT MEANT TO GIVE THAT PARTY RIGHTS IN ANY OTHER INVENTIONS THAT ARE NOT SUBJECT INVENTIONS. ROGERS
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